

# Dealer Newsletter

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## Heavy Truck Registration Procedures

Many of today's pickup trucks exceed 5,000 pounds empty weight, particularly the ¾-ton and 1-ton models. We are aware many dealers forget pickups and vans weighing over 5,000 lbs. are registered by empty weight instead of ad valorem.

Situations have occurred where dealers have registered a truck over 5,000 lbs. by ad valorem rather than empty weight and their customers received a citation from law enforcement for improper registration.

Prior to the conversion to electronic Manufacturers' Certificates of Origin (MCOs), Secretary of State branch offices monitored RD-108s for proper fee basis when paper MCOs were submitted. The MCOs showed the vehicles' empty weight. With the advent


of electronic MCOs for DaimlerChrysler, GM, Ford and Mercedes, we are not as readily able to monitor this activity and must rely on the accuracy of information provided by dealers.

It remains for branch offices and dealers to work together to ensure registrations are issued correctly. Please contact your local branch office if you have any questions. 

## Curbstoners, Beware!

Effective January 1, 2003, Public Act 652 amended the Michigan Vehicle Code to require any person, partnership, or corporation engaged in the business of buying, selling, brokering, leasing or dealing in five or more vehicles in a 12-month period to be licensed by the Department of State.

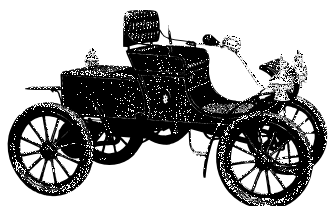
If the Department of State determines that a person has acted as a dealer without possessing a dealer license, the person may be assessed an administrative fine of not more than \$5,000 for a first violation and not more than \$7,500 for each subsequent violation occurring within seven years of a prior violation.

Licensed dealers may be subject to the same sanctions if it is determined they are acting as an unlicensed dealer. For example, selling five or more vehicles in a 12-month period as an individual rather than through the dealership will meet the definition of an unlicensed dealer. 

### Document Fee Increase

Under Public Act 699 of 2002, vehicle dealers are now allowed to charge a maximum document fee of \$160, or 5 percent of the vehicle price, whichever is less. This law, which went into effect December 30, 2002, carries a provision raising the ceiling every two years based on the Consumer Price Index.

The new law impacts financial issues and is administered by the Department of Consumer and Industry Services, Office of Financial and Insurance Services (OFIS). If you have questions regarding the law or its implementation, please contact OFIS toll-free at (877) 999-6442.




# Rebuilt Salvage Titles

Effective January 1, 2003, Public Act 642 amends the Michigan Vehicle Code to require the Department of State to use "Rebuilt Salvage" in place of "This vehicle was previously issued a salvage title" when a salvage-titled vehicle has been recertified for road use.

Michigan dealers who acquire ownership of a late model distressed vehicle not titled as salvage or scrap must surrender the assigned title to the Department of State within five days. A properly completed TR-12 application and an RD-108 for a salvage or scrap title must be submitted, using the following thresholds:


**Salvage** – If the estimated cost of repairs, including parts and labor, is 75 percent or more but less than 91 percent of the pre-damaged actual cash value of the vehicle.

**Scrap** – If the estimated cost of repairs, including parts and labor, is 91 percent or more of the pre-damaged actual cash value of the vehicle.

Only the brand language on rebuilt salvage titles has changed to conform to brand language used by most other states. Dealers should refer to Chapter 5 of the latest edition of their Dealer Manual (June 2002) for additional information. 

## In the Future...

The Bureau of Legal and Regulatory Services will routinely review transactions processed in the branch offices and issue notices of non-compliance when the paperwork is sufficient to support violations of the Michigan Vehicle Code. Licensees receiving notices will be provided with a reasonable amount of time to respond before violations will be added to their dealer records.

Updates to the Dealer Manual will be published on the Secretary of State Web site at [www.Michigan.gov/sos](http://www.Michigan.gov/sos). You can access the Dealer Manual by clicking on the "Services to Businesses" link and selecting "Automobile Dealers." The Dealer Manual will be in .pdf format and an Adobe Acrobat reader will be required for viewing or printing the manual. 


## AFC Announcement Correction

Automotive Finance Corporation (AFC) recently announced it would retain possession of titles financed by AFC and provide Michigan dealers with a copy.

However, the AFC announcement incorrectly stated it is working with the Department of State to prevent action against dealers offering vehicles for sale who do not have properly assigned titles in their immediate possession.

Section 257.235(1) of the Michigan Vehicle Code states that dealers,

"... shall retain and have in the dealer's immediate possession the assigned certificate of title with the odometer information properly completed." The department does not have the authority to waive the requirements of the Michigan Vehicle Code.

The Bureau of Legal and Regulatory Services will take action against vehicle dealers who do not have the assigned certificates of title in their immediate possession when offering vehicles for sale. 

## Off-Lease Vehicles and Manufacturer Buy-Back Purchases

Effective January 1, 2003, Public Act 652 of 2002 permits dealers to **sell** manufacturer buy-back and off-lease vehicles without having a certificate of title in their possession.

The new law defines a manufacturer buy-back as "... a motor vehicle reacquired by a manufacturer as the result of an arbitration proceeding, pursuant to a customer satisfaction policy adopted by the manufacturer ...". Manufacturers are required to mail the title to the dealer within five days of receipt of a signed disclosure statement from the dealer. The disclosure, signed by the purchaser, acknowledges the buyer has been informed that the vehicle is a manufacturer buy-back.

An off-lease vehicle is defined as "... a motor vehicle leased for a term of more than 30 days that the lessee elects to purchase." The Act requires the lessor to mail the title to the dealer within 21 days after the lessor receives the purchase price of the vehicle and any other fees and charges due under the lease.

The Department of State reminds dealers that the Michigan Vehicle Code requires written odometer disclosure to the transferee by means of the certificate of title prior to delivery of the vehicle. The dealer may not **deliver** the vehicle and


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## Off-Lease Vehicles and Manufacturer Buy-Back Purchases

issue a 15-day temporary registration upon selling a buy-back vehicle without a properly assigned title in possession.


Section 217(4) of the Vehicle Code requires dealers to make application for title and registration in the name of the purchaser within 15 days of vehicle delivery. **This requirement has not changed.** 

## Leasing Companies Must Be Licensed

Effective January 1, 2003, the definition of a dealer was expanded to include businesses engaged in leasing vehicles of a type required to be titled under the Michigan Vehicle Code.

Public Act 652 of 2002 specifies that a business which leases five or more vehicles in a 12-month period meets the definition of a dealer. Such businesses are required to be licensed.

Financial institutions, banks, insurers, commercial leasing companies, and businesses transacting vehicle leases for a term of less than 120 days are excluded from the new dealer definition and licensing requirements.

For information on dealer licensing requirements, contact the Automotive Licensing Division, Licensing Section, at (517) 373-9460. 

# Proper Title Assignments

The Michigan Vehicle Code does not permit someone to act as both the transferor and transferee in a single transaction. This means dealers may not use appointment of agent forms or power of attorney documents to sign on behalf of the seller when receiving a vehicle on a trade-in or when handling an off-lease transaction.

Michigan's odometer law, Section 233a (MCL §257.233a), prohibits dealers from signing an odometer statement on behalf of the purchaser. When making a vehicle sale, or, if the dealer is acquiring a vehicle by purchase or trade-in, the dealer cannot sign on behalf of the seller.


In summary, the following prohibitions apply as indicated in Chapter 3 of the Dealer Manual.

***Dealers, their employees, or their agents cannot use the Appointment of Agent form (TR-128) to sign the purchaser's signature on the back of a conforming title;***

***Dealers, their employees, or their agents cannot use an Appointment of Agent form to sign the purchaser's signature on a separate odometer statement;***

***Dealers, their employees, or their agents cannot use a seller's Appointment of Agent form to assign the seller's trade-in title to the dealer.***

Typically, an owner who cannot be present at the sale uses an *Appointment of Agent* form. He or she appoints a third party to serve as an agent to reassign the title of the trade-in vehicle to the dealer, including the odometer statement.

The third party cannot be the dealer, an employee of the dealer, or an agent of the dealer. The appointed agent prints the owner's (seller's) name, then "P/A" (or "Power of Attorney"), and then signs his/her name. 

## Repeat Offender Web Site Changed

The Repeat Offender database allows dealers and others to learn if a vehicle purchaser is ineligible for license plates and subject to registration denial under Michigan's Repeat Offender Law.

This law prohibits the Department of State from registering any vehicle owned, co-owned, leased or co-leased by certain repeat offenders.

***Use the following address to get to the Repeat Offender web site:***

<https://sosntsl02.sos.state.mi.us/repeat/repeat.asp>

**Note:** This database is updated nightly. 



## Dealers Are Reminded...

- Zoning approval is required as a condition of maintaining a dealer license. Dealers must certify on the application form or an addendum that they will maintain an established place of business as defined by the Michigan Vehicle Code.

The certification declares that the dealer is in compliance with all local ordinances including zoning. Dealers are reminded that making a false statement on an application may be grounds for denial, suspension or revocation of the dealer license.

- The full names and addresses of the lessor and the lessee must be indicated on the RD-108 as well as the driver license number of all lessees. No exceptions!

- Michigan is not a title holding state. Dealers who are “buy


here, pay here” should record their lien on the title and deliver the title to the purchaser. If the dealer has received the title through a special mailer, the dealer must forward it to the purchaser within 5 days.

- According to the Office of Financial and Insurance Services, documentation fees may not be charged for motorcycle, trailer and fifth wheel trailer transactions.

- A supplemental license is required to sell vehicles at a separate location within the county of licensure. To sell vehicles at a separate location outside the county of licensure, a new original dealer license is required.

- Registration plates owned by the lessee and used on a leased vehicle expire on the lessee’s birthday and not the

first of the month. If the lessee is a business or company, the plate expires on the first of the month.

- Please include your dealer license number when corresponding with the Dealer Program Section. 

### **Sales Tax on Vehicle Sales to Indiana Residents**

Michigan dealers may collect a 6-percent sales tax (calculated after trade-in vehicle value) when selling vehicles to Indiana residents.

All other procedures for completing a sale to an out-of-state resident, such as issuing a 14-day in-transit permit, still apply.

Dealers should refer to the latest edition of their Dealer Manual (June 2002) for additional information. 